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Director, Federal Regulatory Matters

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NYNEX

Federal Communications Commission

March 19, 1997

Ex Parte

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20054

Re: NYNEX Telephone Companies Comparably  
Efficient Interconnection Plan For Payphone Services;  
CC Docket No. 96-128

Dear Mr. Caton:

The NYNEX Telephone Companies<sup>1</sup> ("NYNEX") submit this Ex Parte to explain that our Comparably Efficient Interconnection ("CEI") Plan for Payphone Services complies with the FCC's jurisdictional tariffing requirements. Pursuant to Section 1.1206(a)(1) of the Commission's Rules, two copies of this submission are provided for inclusion in the public record in the above-referenced proceeding.

FCC Jurisdictional Tariffing Requirements: In this proceeding, pursuant to Section 276 of the Communications Act, the Commission has deregulated customer premises equipment ("CPE") utilized in LEC payphone offerings. The Commission has required BOCs to file CEI Plans covering deregulated payphone services and following the Commission's Computer III and ONA requirements.<sup>2</sup>

In its Payphone Order (para. 146), the Commission required "Unbundling of Payphone Services" as follows: The Commission concluded that incumbent LECs must offer

<sup>1</sup> New England Telephone and Telegraph Company and New York Telephone Company.

<sup>2</sup> See Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-198, Report and Order, FCC 95-388, released September 20, 1996 ("Payphone Order"), paras. 146-148, Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Payphone Recon. Order"), paras. 147, 162-165, 210-211, 218-220.

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“individual central office coin transmission services” to payphone services providers (“PSPs”) under nondiscriminatory, public, tariffed offerings “if the LECs provide those services for their own operations”. [Emphasis added.] Stating that “all carriers must unbundle basic services from CPE,” the Commission concluded that “incumbent LECs must provide coin service so competitive payphone providers can offer payphone services using either instrument-implemented ‘smart payphones’ or ‘dumb’ payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECs.”

With respect to these unbundled central office coin transmission services, the Commission originally required incumbent LECs to file federal tariffs.<sup>3</sup> On reconsideration, the Commission deleted this requirement, and directed instead that “LECs must file those tariffs with the state.”<sup>4</sup>

Importantly, in the Payphone Order (para. 148), the Commission specifically declined to require unbundling of “other network services and network elements” [Emphasis added], stating that such further unbundling is not necessary to provide payphone services and that some features requires substantial costs to make switch changes. The Commission observed that, as a going-forward matter, BOCs must “unbundle additional network elements” when requested by payphone providers based on specific criteria established in the Computer III and ONA proceedings (i.e., the ONA request 120-day process).

In its Payphone Recon. Order (para. 165), while the Commission modified the federal tariffing requirement of the Payphone Order as noted above, the Commission “decline[d] to require further unbundling of payphone services beyond those established in the Report and Order” [i.e., the Payphone Order]. The Commission indicated that unbundled basic services or network features (beyond the unbundled offerings noted above subject to state tariffing only) used by a LEC’s operations to provide payphone services must be tariffed in the state and federal jurisdiction, consistent with the Payphone Order.<sup>5</sup>

NYNEX Compliance With Jurisdictional Tariffing Requirements: NYNEX’s basic payphone line services, which are unbundled from CPE and enable all PSPs (including NYNEX) to provide smart and dumb payphones, have been tariffed at the state level, as required by the Commission in its Payphone Recon. Order. That is, as explained in our CEI Plan,<sup>6</sup> NYNEX continues to offer a variety of tariffed Public Access Line (“PAL”)

<sup>3</sup> Payphone Order para. 147.

<sup>4</sup> Payphone Recon. Order para. 162. The Commission also said: “LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission. We will rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276.” Id. at para. 163.

<sup>5</sup> See Payphone Recon. Order at paras. 162-163. The Commission reiterated that: “We clarify that any unbundled network features provided to a LEC payphone operation must be available on a nondiscriminatory basis to independent payphone providers and must be tariffed in the federal and state jurisdictions.” Id. at para. 165. [Emphasis added.]

<sup>6</sup> NYNEX CEI Plan, pp. 3-4, Appendix A, Attachment A

services in all its state jurisdictions,<sup>7</sup> supplemented by four additional state tariffed (PAL) service offerings: One-Way Basic Coin Access Line, Two-Way Basic Coin Access Line; Inmate Public Access Line; and Charge-A-Call Public Access Line. These network service offerings include all the underlying network functionalities that were used to provide NYNEX's payphone services.<sup>8</sup> Because NYNEX's deregulated payphone services will be using only these four new PAL services, NYNEX does not need or plan to use any unbundled features or functions beyond those included in the four new PAL services.<sup>9</sup>

It bears emphasis that the only network services and features subject to the federal tariffing requirement of the Payphone Order (as modified by the Payphone Recon. Order) are any unbundled services and features above and beyond the basic payphone line, which services and features are network-based, payphone-specific and used by the LEC's deregulated payphone operations.<sup>10</sup> Thus, for example, in no event would existing network access line features taken by a non-affiliated PSP, but not by the NYNEX PSP, have to be federally tariffed. As the Commission has previously held: "For CEI purposes a BOC must only make available to others the same basic services that it uses ... . [No] further unbundling ... is required to satisfy CEI requirements."<sup>11</sup>

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<sup>7</sup> The Payphone Recon. Order at para. 163 recognized that LECs may have already filed intrastate tariffs for these services. The Commission indicated it will rely on the states to determine whether such tariffs comport with Section 276 and related FCC requirements, and the Commission did not require federal tariffs to be filed for these services.

<sup>8</sup> Any further unbundling of these new service offerings would required additional service developments and costs, and is not required as noted above. See Payphone Order para. 147; Payphone Recon. Order para. 165.

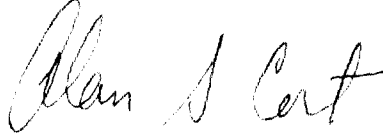
<sup>9</sup> To the extent that NYNEX deregulated payphone services will use any unbundled feature, such as Line Side Answer Supervision, which is available as an unbundled option on its existing PALs, NYNEX will file the appropriate federal tariffs and amend its CEI Plan.

<sup>10</sup> Again, the Commission did not order any such unbundling except as may occur subsequently through, e.g., the ONA request 120-day process. The only reference by the Commission to a specific service subject to federal tariffing was to originating line screening service ("OLS"), which the Commission previously ordered must be federally tariffed. See Payphone Recon. Order para. 162 & n. 491. NYNEX is complying with that requirement. The Commission also noted that states may require all LECs to provide, pursuant to nondiscriminatory tariffs, unbundled network functionalities associated with payphone services. Id. at para. 165.

<sup>11</sup> NYNEX CEI Plan For Voice Messaging Services, 4 FCC Rcd 554, para. 15 (Com. Car. Bur. 1989).

Accordingly, NYNEX has demonstrated compliance with the FCC's jurisdictional tariffing requirements applying to deregulation of payphone services, and the NYNEX CEI Plan For Payphone Services should promptly be approved.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Alan S. Cert".

cc: Mr. Richard Welch  
Mr. Craig Brown  
Mr. Jim Schlichting  
Mr. Jim Lichford  
Mr. Michael Carowicz  
Mr. John Muleta

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